

TTAB

Docket No. 26094.069

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In The Matter of Application Serial No. 77/177,019
Published in the Official Gazette of November 6, 2007

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FUSION BRANDS INTERNATIONAL SRL,

Opposer,

v.

DAVID SHIGEO SUZUKI,

Applicant.

OPPOSITION NO.

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NOTICE OF OPPOSITION

Commissioner for Trademarks
BOX TTAB FEE
P.O. Box 1451
Alexandria, VA 22313-1451



03-05-2008

U.S. Patent & TMO/TM Mail Rpt. D: #34

Opposer, Fusion Brands International SRL, a Barbados company, having a business address of Grove 21, Belleville, St. Michael, BB111133, Barbados (hereinafter referred to as

"Express Mail" Mailing Label Number

EV 606049459 U.S.

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on

march 5, 2008
(Date of Deposit)

SYLVIA B. MORITZ
(Print name)


(Signature)

Opposer”) believes that it will be damaged by and hereby opposes the registration of Applicant’s mark FUSIONCEUTICALS. The grounds for opposition are as follows:

1. Applicant, David Shigeo Suzuki, (hereinafter “Applicant”) has filed App. Ser. No. 77/177,019 for the mark FUSIONCEUTICALS, based upon intent-to-use in U.S. interstate commerce, in connection with “cosmetic creams for skin care; non-medicated skin care preparations; skin care preparations, namely, chemical peels for skin; skin care preparations, namely, fruit acid peels for skin; skin care products, namely, non-medicated skin serum; wrinkle removing skin care preparations; body and beauty care cosmetics; cleansing creams; cosmetic creams; cosmetic preparations against sunburn; cosmetic preparations for body care; cosmetic preparations for skin renewal; cosmetic sun-protecting preparations; cosmetics; face creams for cosmetic use; skin and body topical lotions, creams and oils for cosmetic use; anti-aging cream; exfoliant creams; skin moisturizer; skin moisturizer masks ” in class 3 (“Applicant’s Mark”).

2. Opposer is, and has for many years been, engaged in the business of developing and marketing its highly successful cosmetics, skin care products, tanning products and lip products, all sold under its trade name and trademark FUSION BEAUTY.

3. Among such successful products sold by Opposer under its FUSION BEAUTY trade name and trademark are its highly successful LIPFUSION, LIFTFUSION, GLOWFUSION and SKINFUSION branded products. Opposer’s FUSION BEAUTY, LIPFUSION, LIFTFUSION, GLOWFUSION and SKINFUSION marks are hereinafter referred to as “Opposer’s Common Law Trademarks.”

4. Opposer owns, among others, registrations and/or allowed applications for the following trademarks (“Opposer’s Trademark Registrations and Applications”):

MARK	REG. /APP. NO	GOODS
FUSION BEAUTY	3229984	Non-medicated skin care preparations; lip products, namely, lip glosses, lip pencils, lip plumpers.
FUSION BEAUTY	78/848,174	Medicated skin care preparations.
FUSION BEAUTY	3365476	Online retail store services featuring beauty products.
LIFTFUSION	3162790	Skin care products, namely, cosmetic creams.
LIFTFUSION	78/654,001	Skin care products, namely, face and body lotions, skin moisturizers.
LIPFUSION	78/599,462	Lip products, namely, lip plumping gloss, lip pencils, lip shines and lip gloss.
LIPFUSION	77/187,693	Online retail store services featuring beauty products.
GLOWFUSION	3288759	Cosmetics; body care products, namely, body lotions and tanning lotions.
LASHFUSION	3358421	Mascara.
BLINGFUSION	77/116,424	Cosmetics.
PUREFUSION	78/669,703	Skin care products, namely, beauty serums.
HAIRFUSION	78/734,625	Shampoo, hair conditioner, non-medicated hair serums; non-medicated hair treatments, namely, hair texturizers.
SKINFUSION	77/005,335	Color cosmetics, namely, foundation, powder concealer, blush and eye shadow
LIGHTFUSION	78/688,918	Skin care products, namely, non-medicated skin creams; cosmetics.
FUSION RX	78/619,162	Cosmetics; non-medicated body care products, namely, beauty creams and body lotions.
CLEARFUSION	78/790,630	Non-medicated skin care preparations.
FUSIONPHARMA	78/917,156	Non-medicated skin care preparations and medicated skin care preparations, pharmaceutical preparations for skin treatment.
FIRMFUSION	77/097,843	Skin creams and lotions.
GIFTFUSION	77/092,573	Lip plumping gloss, lip pencils, lip gloss and lip shines; cosmetics; non-medicated skin care preparations.

Opposer's Common Law Trademarks and Opposer's Trademark Registrations and Applications are collectively referred to as "Opposer's Trademarks."

5. Opposer has spent millions of dollars advertising Opposer's Trademarks and the goods sold thereunder.

6. By virtue of extensive use and advertising in commerce, Opposer has built up highly valuable goodwill in Opposer's Trademarks, and the said goodwill has become closely and uniquely associated with Opposer.

7. Opposer's first use and/or priority dates for Opposer's Trademarks predate Applicant's alleged date of first use of Applicant's Mark.

8. The goods of Applicant are identical and/or related to the goods covered by and offered in connection with Opposer's Trademarks so that there would be a likelihood of confusion.

9. Applicant's FUSIONCEUTICALS mark so resembles Opposer's Trademarks as to be likely, as applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such services are associated in some way with Opposer. Opposer would thereby be injured by the grant to Applicant of a registration for Applicant's FUSIONCEUTICALS mark.

10. Opposer would further be injured by the grant of a registration to Applicant for Applicant's FUSIONCEUTICALS mark because such mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's FUSIONCEUTICALS mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Arlana S. Cohen and Sujata Chaudhri (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please charge Deposit Account No. 03-3415 for \$300, the filing fee in connection with the opposition.

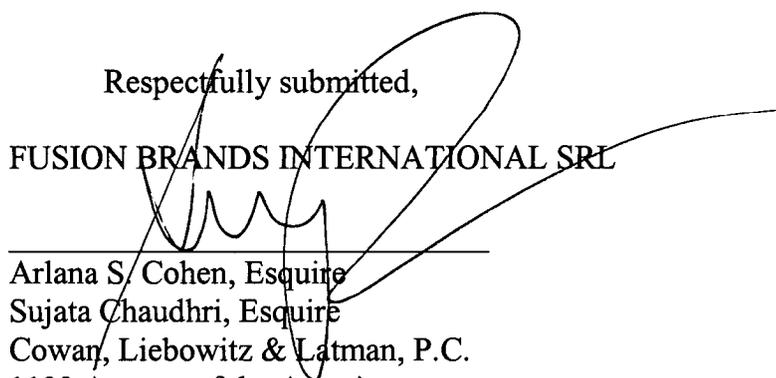
Please address all communications to Arlana S. Cohen, Esq. at the address listed below.

Date: New York, New York
March 5, 2008

Respectfully submitted,

FUSION BRANDS INTERNATIONAL SRL

By:



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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Notice of Opposition to be sent via first class, postage paid mail to Applicant, David Shigeo Suzuki, 2244 1st Avenue S, Seattle, WA 98134-1408 on March 5, 2008.


Sylvia Moritz